

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 86 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HARSHA S PATEL

Versus

AMEE SHRIFIN INVESTMENT CO. PVT. LTD.

Appearance:

MR BHARAT T RAO for Petitioner

MR SURESH N. SHELAT for the respondent-Company

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 11/03/97

ORAL JUDGEMENT

Petitioner - Mrs. Harsha Patel is before this Court, by way of filing the Company Petition, saying that, the respondent-Company, Ameer Shrifin Investment Co. Pvt. Ltd., requires to be wound up.

The case presented by the petitioner is that, she had invested an amount of Rs.10 Lakhs and that the respondent-Company was to pay the interest at the rate of 12% per annum, at the interval of six months. According to the petitioner, there was no re-deposit of the amount and that, therefore, the respondent-Company was dutybound to repay the said amount with interest. The petitioner places reliance upon Annexure.C, the statutory notice

dated June 14, 1992. It is the say of the petitioner in the petition and buttressed by learned Counsel Mr.B.T.Rao for the petitioner that, despite this statutory notice, no payment has been made. The affidavit-in-reply filed by the respondent-Company, through one of the Directors, would go to show that, according to them, the petitioner had advanced the above said amount by way of unsecured loan on "non-repatriation basis" and the rate of interest agreed between them was 8% per annum. The affidavit-in-reply further says that, it was agreed between the petitioner and the respondent-Company that, the amount shall remain with the respondent-Company, for a period of two years and that, later on, the period of repayment could be mutually decided. Any how, there is nothing on record to warrant such a conclusion. The petition has been duly admitted and the public advertisements have been given.

It appears that, the respondent-Company is not in a position to repay the undisputed amount. Moreover, it also appears that the sub-stratum of the Company has been lost and that the Company has seized to be a viable economic unit. In the interest, therefore, of the petitioner and other probable creditors, the present petition requires to be granted and the respondent-Company is required to be ordered to be wound up. I order accordingly. The Official Liquidator shall be the Liquidator for the respondent-Company. The petition stands disposed of, with the above said orders. There shall be no order as to costs.
